

**Supporting Statement for Paperwork Reduction Act Submissions**  
**30 CFR Part 208—Sale of Federal Royalty Oil;**  
**Sale of Federal Royalty Gas; and**  
**Commercial Contracts**  
**(Forms MMS-4070, Application for the Purchase of Royalty Oil;**  
**MMS-4071, Letter of Credit; and**  
**MMS-4072, Royalty-in-Kind Contract Surety Bond)**  
**(OMB Control Number 1010-0119)**  
**(Expiration Date: January 31, 2006)**

**General Instructions**

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section A below. If an item is not applicable, provide a brief explanation. When Item 17 of the OMB Form 83-I is checked “Yes,” Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

**Specific Instructions**

**A. Justification**

*1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

Title Change

The title of this information collection request (ICR) is “30 CFR Part 208—Sale of Federal Royalty Oil; Sale of Federal Royalty Gas; and Commercial Contracts (Forms MMS-4070, Application for the Purchase of Royalty Oil; MMS-4071, Letter of Credit; and MMS-4072, Royalty-in-Kind Contract Surety Bond).” We changed the title of this ICR to clarify the regulatory language we are covering under 30 CFR part 208 and to include relevant portions of the Royalty-In-Kind (RIK) 5-Year Business Plan. The title change also reflects OMB’s approval of consolidation of five RIK-related ICRs. Those ICRs were titled:

- 1010-0042: 30 CFR Part 208—Sale of Federal Royalty Oil; Royalty-in-Kind (RIK) Program (Form MMS-4070, Application for the Purchase of Royalty Oil);
- 1010-0119: 30 CFR Part 208—Sale of Federal Royalty Oil, Royalty Oil Sales to Eligible Refiners (30 CFR 208.4(a) and (d));

- 1010-0126: Royalty-In-Kind (RIK) Pilot Program Directed Communications by Operators of Federal Oil and Gas Leases;
- 1010-0129: Royalty-in-Kind Pilot Program—Offers, Financial Statements, and Surety Instruments for Sales of Royalty Oil and Gas; and
- 1010-0135: 30 CFR 208.11(a), (b), (d), and (e)—Surety Requirements (Forms MMS-4071 and MMS-4072).

In the five ICRs, much of the general information was repeated and cross referenced. This consolidated ICR 1010-0119 eliminates that duplication of effort and redundancy of data and provides for review of all RIK information collection requirements on a program-wide basis. The total combined hours for ICR 1010-0119 is 5,121 as of OMB Notice of Change dated February 16, 2005.

### Introduction

The Secretary of the U.S. Department of the Interior is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage mineral resources production on Federal and Indian lands, collect the royalties due, and distribute the funds in accordance with those laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The Minerals Management Service (MMS) performs the royalty management functions for the Secretary.

Minerals produced from Federal and Indian leases vary greatly in the nature of occurrence, markets served, and production and processing methods. When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share of the value (royalty), or volume (in-kind), received from production from the leased lands. The information collected includes data necessary to assure that the royalties are paid appropriately.

The MMS is responsible for ensuring that all revenues from Federal mineral leases are accurately collected, accounted for, and disbursed to recipients. Historically, most of these revenues have been received in the form of cash royalty payments, i.e., royalty in-value payments. These payments are paid by mineral development interests. In recent years, MMS conducted pilots to test the approach of taking royalties in kind or volume.

Applicable citations (Attachment 1) of the laws pertaining to the taking and selling of the Federal Government's royalty share of mineral leases in the form of production (royalties "in kind") include:

- 30 CFR part 208;
- Mineral Leasing Act of 1920, Section 36, as amended (30 U.S.C. 192);
- Outer Continental Shelf (OCS) Lands Act of 1953, Section 27, as amended

- (43 U.S.C. 1353);
- 30 U.S.C. 189 pertaining to Public Lands;
- 30 U.S.C. 359 pertaining to Acquired Lands; and
- 43 U.S.C. 1334 pertaining to OCS Lands.

These citations, as well as specific language in the actual lease documents, authorize the Secretary to sell royalty oil and gas accruing to the United States. The standard lease terms state that royalties are due in amount or in value. In addition, these citations authorize the Secretary to prescribe proper rules and regulations and to do any and all things necessary to accomplish the purpose of applicable laws. For example, MMS directs communications between MMS operators and RIK purchasers through commercial contracts, situation-specific “Dear Operator” letters, or, in the case of eligible refiners, through regulations at 30 CFR part 208.

The Federal Government’s MMS RIK pilot program became a permanent operational program after several years of pilot project testing. The MMS RIK operational program takes payment from mineral lessees “in kind” in the form of produced crude oil and natural gas volumes, rather than in cash payments. The lessee transfers the title of the crude oil or natural gas to the Federal Government, and MMS sells the received product (crude oil or natural gas) to agents in the marketplace and disburses revenues as prescribed by law. The MMS sells some product competitively in the unrestricted marketplace, and other RIK product is sold competitively to eligible refiners (a small and independent refiner, as defined in 30 CFR 208.2). Additionally, when directed, MMS delivers the RIK product to other Federal agencies, as has been the case during the fill of the Strategic Petroleum Reserve (SPR), directed by the President in 2001, with scheduled completion in 2005. Specifically, within the MMS RIK operational program, RIK conducts the eligible refiner program and the SPR program, in addition to the Wyoming crude oil, offshore unrestricted crude oil, and offshore natural gas programs. Under these various programs, RIK purchasers, SPR participants, and lease operators have been required to submit various types of information that have been collected under five separate ICRs: 1010-0042, 1010-0119, 1010-0126, 1010-0129, and 1010-0135.

Recently, MMS consolidated and revised existing procedures and policies guiding the sale of onshore and offshore royalty crude oil and natural gas (1) to establish uniformity within the regulatory and operational framework; (2) to provide industry with a more efficient and responsive MMS RIK operational program; and (3) to improve the Federal Government's administration of this program. For example, under ICR 1010-0119, MMS merged all previous ICRs into one information collection action, combining reporting requirements for eligible refiners under 30 CFR part 208 with reporting requirements for other RIK purchasers. Also, we are revising this ICR to include regulatory requirements not previously addressed as information collections.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. [Be specific. If this collection is a form or a questionnaire, every question needs to be justified.]**

**Eligible Refiner Information**—This information was previously collected under ICRs 1010-0042 and 1010-0119.

**Determination of Need**—*Federal Register* Notice

As stated earlier, royalties may be paid “in value” or “in kind.” The regulations at 30 CFR part 208, Sale of Federal Royalty Oil, govern the Federal oil RIK program for eligible refiners. Under 30 CFR 208.4(a) and (b), MMS, on behalf of the Secretary, performs a Determination of Need prior to issuing a Notice of Availability of Royalty Oil for sale. The MMS uses the feedback from the Determination of Need respondents (eligible refiners or other interested parties, such as lessees or operators) to assess current marketplace conditions, i.e., whether small and independent eligible refiners have access to ongoing supplies of crude oil at equitable prices. When MMS determines that eligible refiners do not have access to adequate supplies of oil, MMS may dispose of any royalty oil taken by conducting a sale of such oil, through an allocation process, to eligible refiners. When MMS determines that eligible refiners do not have access to adequate supplies of oil, MMS may dispose of any royalty oil taken by conducting a sale of such oil, through an allocation process, to eligible refiners.

The most recent Determination of Need assessment, requesting specific information from eligible refiners, was published in the *Federal Register* on August 11, 2003 (68 FR 47605).

In order to qualify for RIK sales, eligible refiners must prequalify by signing the MMS base contract, “RIK Crude Oil General Terms and Conditions,” and providing detailed financial information. Upon prequalification, MMS will issue an amount of unsecured credit, based on the creditability of the offeror.

**Notice of Availability of Royalty Oil**—*Federal Register* Notice

Under § 208.5, if MMS determines from the Determination of Need that eligible refiners do not have access to adequate supplies of crude oil, MMS would then publish a Notice of Availability of Royalty Oil in the *Federal Register* and other printed media, when appropriate. This notice advises industry of a forthcoming RIK crude oil sale for eligible refiners and includes administrative details concerning the application, the allocation process, and the contract award process for the royalty oil. It also details specific information about the crude oil types offered for sale and the location of delivery points. The most recent Notice of Availability of Royalty Oil was published in the *Federal Register* on March 12, 2004 (69 FR 11881).

Under § 208.10(e), eligible refiners who purchase royalty oil cannot transfer, assign, or sell their rights or interest in a royalty oil contract without written approval of the Director, MMS. This provision is intended to ensure that only qualified eligible refiners benefit from these sales of royalty oil.

**Form MMS-4070—Application for the Purchase of Royalty Oil**

Under § 208.6, eligible refiners interested in purchasing royalty oil submit Form MMS-4070 (Attachment 2) in accordance with instructions in the Notice of Availability of Royalty Oil and instructions issued by MMS for completion of the form. On Form MMS-4070, MMS requests specific information on the location of their refinery; desirability of offshore versus onshore crude; type of crude desired (e.g., Wyoming Sweet); ability to obtain long-term supply of desired crude (with supporting documentation, such as “denial” by major supplier); ability to obtain desired crude at fair market prices (with supporting documentation that desired oil was not available or equitably priced for the area or region in question); percentage of total refining capacity attributable to Federal oil versus other sources; etc.

The Federal Government's administration of the eligible refiner program is aided significantly by the collection of information requested on Form MMS-4070. The MMS uses the information collected to determine the eligibility of refiners wanting to enter into contracts to purchase royalty oil and to provide a basis for the allocation of available royalty oil among eligible refiners, when necessary; that is, they meet the small refiner eligibility requirements issued by the Small Business Administration, as explained under § 208.6. Form MMS-4070 requires:

- (1) the name and address of the applicant;
- (2) the location of the applicant's refinery(ies);
- (3) a disclosure of the applicant's affiliation with any other persons;
- (4) the capacity of the applicant's refineries in barrels of crude oil throughput per calendar day and a tabulation for the past 12 months of oil processed for each refinery, identified as to the source;
- (5) the identification of any Government royalty oil contract numbers (if any) under which the applicant currently receives royalty oil;
- (6) the identification of the locations (area/region and state) where the applicant proposes to purchase royalty oil, the volume of oil requested, and the specific refineries in which the oil will be refined;

(7) a certification from the applicant that it is an eligible refiner for the purchase of Government royalty oil, as defined in § 208.2; and

(8) the name of the preparer.

### **Eligible Refiner Prequalification**

In order to qualify for RIK sales, eligible refiners must prequalify by signing the MMS base contract, “RIK Crude Oil General Terms and Conditions,” and providing detailed financial information.

***Directed Communications by Operators of Federal Oil and Gas Leases***—This information was previously collected under ICR 1010-0126.

Collection of RIK crude oil and natural gas for eligible refiners and other RIK purchasers requires communication between MMS and the operators of a lease to ensure accurate and timely delivery of MMS’s royalty share of production volumes. In order to take MMS’s crude oil or natural gas in kind, MMS, as the responsible steward of oil and gas royalties, must direct operators of affected MMS leases to provide three types of communication:

- (1) Report information about the projected volumes and qualities of RIK crude oil or natural gas production the operator expects to make available for delivery in the following month, and report corrections to those projected volumes and qualities for previous months, submitting monthly no later than 10 days before the first day of following month;
- (2) Report cost/invoicing information about transportation charges incurred for delivering the RIK product to the delivery point, when applicable; and
- (3) Report month-end summary information (lease imbalance statement) regarding total RIK crude oil or natural gas volumes and qualities needed to carry over to the next month to resolve aggregated imbalances that have occurred in prior months of RIK deliveries.

Our experience shows that directed communication requirements differ according to the needs of each RIK program. For this reason, we are not requesting OMB approval of a specific “Dear Operator” letter to operators but, instead, requesting OMB approval to continue collecting the three kinds of directed communications. By obtaining continued approval for these three kinds of reporting requirements, MMS will be able to select the types of directed communications needed for each RIK program and include only those types in a “Dear Operator” letter appropriate to the operation. These sample “Dear Operator” letters are posted on RIK’s website at <http://www.mrm.mms.gov/rikweb/RIKOperLts.htm>. See Attachment 3 for list of “Dear Operator” letters.

In marketing the product, information received through MMS's directed communication is essential for MMS to ensure the delivery and acceptance of verifiable quantities and qualities of crude oil and natural gas.

In cases when MMS is directed to deliver the product to other Federal agencies, these types of directed communication are necessary so that exchange contractors can arrange to timely accept accurate amounts and qualities of royalty oil that will be delivered by MMS's exchange partner and for MMS to verify timely fulfillment of operators' and lessees' royalty obligations to the Federal Government.

The types of directed communication and the supporting data, which MMS requires operators to use in setting up the monthly delivery of RIK to the purchaser, are standard business practices in the oil and gas industry.

When the lessee fulfills the lease royalty obligation in kind rather than in value, the lessees' payors (who often are also the operators) are relieved of most of the burden to report on Form MMS-2014 (ICR 1010-0140, expires October 31, 2006). The MMS uses this form to track payors' remittances. However, MMS still requires reporting on Form MMS-2014 to (1) document the payment when underdelivery of royalty production volume is resolved by cash payment or (2) document costs of transportation when royalty production is delivered away from the lease.

***Third-Party Agreements***—This information was previously collected under ICR 1010-0042.

Title 30 CFR 208.9 requires that eligible refiners who purchase royalty oil must submit to MMS two copies of any written third-party agreements, or two copies of a complete written explanation of any oral third-party agreements, relating to the method and costs of delivery of royalty oil, or crude oil exchanged for the royalty oil, from the point of delivery under the contract to the purchaser's refinery. Also, this section requires that the purchaser must submit copies of agreements pertaining to quality differentials that may occur between the lease(s) and the delivery point(s). However, in practice MMS does not currently require eligible refiners to submit these agreements.

***Offers, Financial Statements, and Surety Instruments for Sales of Royalty Oil and Gas***—This information was previously collected under ICRs 1010-0129 and 1010-0135.

**Offers.** The Secretary is obligated to hold competition when selling to the public to protect actual RIK production before, during, and after any sale and to obtain a fair return on royalty production sold. The MMS must fulfill those obligations for the Secretary. The reporting requirements are (1) actual pricing offers that potential purchasers will submit when MMS offers production for competitive sale; (2) offerors' statements of financial qualification (audited financial statements or 10K report/statement); and (3) surety instruments, such as a Letter of Credit (LOC), bond, prepayment, or parent guaranty when financial qualification is not sufficient. All LOCs are irrevocable.

The MMS typically offers royalty oil and gas production for sale by Invitation for Offers (IFOs) to those offerors who have previously established their qualifications. The MMS evaluates all offers to determine which combination of price and other terms comprises the best return to the U.S. Department of the Treasury and to any affected state.

In addition, MMS evaluates these offers, which competing potential purchasers may choose to submit, in response to a variety of types of sales packages, i.e., pricing basis, terms, locations, deal structures, offered by MMS in the MMS RIK operational program. The pricing basis for soliciting bids (or offers) may also vary within each sales package (e.g., posted, index, or NYMEX price, onshore or offshore delivery). All these parameters are specified in the IFO, and the offering parties may submit bids for any of the offered sales packages using any of the variety of pricing bases provided for each sales package.

**Financial Statements.** The MMS may request that a bidder submit its public-available statements of its financial condition (brought briefly up to date, if needed) or other related qualification information. The MMS evaluates the qualification information to determine whether bidders are reliable to follow through on payment of the dollar amount (or delivery of exchange production) offered, as they bid, and to determine their ability to timely perform activities attendant to the taking of crude oil and/or natural gas. The MMS performs this step to reduce the risk to the Federal Government in these transactions. Upon prequalification, MMS will issue an amount of unsecured credit, based on the creditability of the offeror.

**Surety Instruments.** Under MMS's current practice, eligible refiners are subject to the same requirements as other RIK purchasers regarding MMS-acceptable surety instruments and qualification information. Reporting requirements in 30 CFR 208.11 discuss surety instruments for eligible refiners. Surety instruments include the broad field of financial instruments that may be collected, such as bonds, prepayments, and parent guaranties. When required, eligible refiners and other RIK purchasers must provide surety documents, i.e., Form MMS-4071, LOC (Attachment 4); Form MMS-4072, Royalty-In-Kind Contract Surety Bond (Attachment 5); other acceptable commercial surety, within 5 business days prior to the first delivery under the contract to protect the Federal Government's interest. For bonds, MMS requires a specific MMS-approved format. All parent guaranties must specify a dollar amount of the guaranty and the effective term.

For awards exceeding the amount of unsecured credit issued by MMS, successful offerors will be required to provide secured financial assurance in the form of an LOC, bond, or other MMS-acceptable surety instrument within 5 business days prior to the first delivery under the contract.



In cases of high-risk counterparties, or large awards of RIK crude oil or natural gas, MMS will require a surety instrument to guarantee performance under RIK sales or exchange agreement. Surety instruments are commonly used in the commercial oil and gas industry as a standard course of business where risk is encountered from counterparties.

The surety instruments provide the Federal Government with a means to collect money if refiners do not report and pay for the Federal oil they have received. Annually, the MMS receives approximately 3 bonds, less than 5 LOCs, 1 or 2 prepayment(s), and 10 parent guaranties or, in some cases, semiannually.

***3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden [and specifically how this collection meets GPEA requirements].***

For the responses to the Determinations of Need, MMS anticipates some companies will choose to provide hard-copy feedback to this information collection. However, MMS allows potential respondents the option of using electronic mail in an effort to reduce their administrative burden.

The information required on Form MMS-4070 must be taken from the records of refiners for each specific application for the purchase of royalty oil. Respondents use electronic reporting methods, and MMS encourages them to do so. All responses can be submitted electronically including third-party agreements.

In regard to directed communications by operators, the Government Paperwork Elimination Act (GPEA) does not apply because the communications are initiatives with a relatively short and finite timeframe. The MMS does accept most communication methods used in the normal course of business including electronic technology, such as electronic spreadsheets of balancing accounts, telephone, e-mail, and telefax. We expect to receive, on an average, 50 percent of the responses electronically.

For offers, the bid itself is part of a formal competitive process, which, in its entirety, is safeguarded by MMS contracting officers. Respondents submit offers by telefax, e-mail, electronic trading systems, electronic voicemail messages, or tape-recorded telephone conversations to expedite review. However, to assure demonstrable integrity of the process, respondents must confirm such offers, if awarded, by submitting a signed paper copy thereafter, normally by facsimile.

Respondents may initially submit financial statements or other related qualification information by telefax, e-mail, or regular mail. However, MMS has acquired a service to obtain financial statements electronically through the Internet, which has reduced the reporting requirement commensurately.

For surety instruments, the use of electronic technology is not appropriate. To be legally binding, respondents must submit a surety instrument to MMS as a paper copy with original signatures and appropriate seals of authenticity. The GPEA does not apply to surety instruments because eligible refiners must provide an authorized-signature surety instrument. The MMS will not accept an electronic or telefax copy from the eligible refiners. The bonding and banking industry requires that original documents be submitted if draw down is necessary. The MMS surety forms are available on our website, prior to eligible refiner RIK sales, at [http://www.mrm.mms.gov/Laws\\_R\\_D](http://www.mrm.mms.gov/Laws_R_D).

***4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.***

No other agency collects similar information that can be modified for this collection.

The Determination of Need information is a unique inquiry that solicits response on current crude oil market conditions and cannot be provided by any other Federal agency.

The information requested on Forms MMS-4070, MMS-4071, and MMS-4072 is specific to a particular government-issued contract and is not duplicated by any other agency. No other agency collects similar information from the third-party agreements submitted by RIK purchasers.

The information related to directed communications by operators for RIK sales and purchases is unique to the particular operations relating to delivery of RIK production and not reported to any other agency.

No other agency collects offers. Similar information cannot be modified for this purpose. Only offerors (or their authorized agents) can submit their bid. Respondents must uniquely generate and submit the bids under MMS's controlled and impartial competitive process.

In addition, no other agency collects financial statements or other related qualification information in support of the MMS RIK program. This information is generally publicly available on the Internet, in conjunction with the Security and Exchange Commission (SEC) requirements. Offerors and potential offerors are only required to submit financial information when it is not available through any public sources or other agencies.

Surety instruments such as LOCs and parent guaranties are typically standardized forms that possibly could be used by other Federal agencies, state agencies, universities, and commercial institutions. In the normal course of business, the respondent, not another Federal agency, must submit a surety instrument. The surety instrument required from eligible refiners is unique and does not duplicate any information available from another agency.

***5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.***

This collection of information impacts “small businesses” because the RIK eligible refiner program, by definition, involves small and independent eligible refiners. Small businesses are among the potential respondents to these requests for information related to RIK sales. There are no special provisions for small businesses. However, MMS eliminated the requirement that small refiners submit a letter of credit with Form MMS-4070. The MMS carefully analyzed all requirements to ensure that the information requested is the minimum necessary to accomplish our mission. The MMS is in regular contact with respondents and provides assistance upon request.

It is important to note that the eligible refiner program, while imposing a certain degree of collection burden, is a “set-aside” program, specifically implemented, to aid eligible refiners to obtain crude oil. Eligible refiners or RIK purchasers can submit third-party agreements by facsimile or e-mail to minimize their burden from this information collection.

The impact on small businesses is the same as on large businesses in terms of the hour burden of communicating three kinds of information relating to offers, financial statements, and surety instruments.

For the Determination of Need, as discussed earlier and confirmed as a “unique” inquiry of current program participants, we expect minimal burden from this information collection. The use of e-mail as a means of collection will reduce the burden for those with access to information technology.

For offers, the burden to the eligible refiner, or RIK purchaser to submit a bid is minimal, and MMS streamlined it as much as possible for the benefit of businesses of all sizes. The MMS provides a list of offered properties and relevant information about location and pipeline connections to potential offerors. The offerors should only enter the price they are offering on the list and return it with a signature page to MMS. Private sources presently market most of their oil and gas production under similar competitive processes. Any business MMS would find qualified to bid and purchase MMS’s oil and gas production would already be researching the market to establish their offering price and would have no trouble meeting the minimal burden of submitting a competitive bid.

Companies of all sizes routinely maintain and provide financial statements or other related qualifying information in the normal course of business. Therefore, submitting the information to MMS, this would not place undue burden on small businesses. In certain cases, MMS will accept alternative financial information in lieu of company financial statements. This is particularly the case for very small private companies that do not wish to release sensitive financial information to the Federal Government.

For surety instruments, eligible refiners requested that MMS accept an LOC or bond to protect the Federal Government against loss in lieu of relying solely on the small business' financial statement as a predictor of performance. The eligible refiners requested this, in the belief, some small businesses might not qualify for RIK contracts if MMS evaluated them solely on their financial statements. Furthermore, MMS recently instituted a credit-risk management program whereby small businesses, as well as other companies, can qualify for an approved line of unsecured credit. While it may not reduce the number of surety instruments collected under this ICR, the line of credit serves to reduce the dollar value of the surety, i.e., secured credit, that would be required to participate in the five RIK programs. Therefore, eligible refiners are required only to provide financial assurance when and only if they are awarded a sales contract under the IFO to compensate for any deficiencies in their MMS-approved line of credit, compared to the 60-day value of the awarded amount. Eligible refiners have historically used the surety forms and have not indicated any undue burden from continuing to submit these forms.

***6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.***

In this ICR, there are no technical obstacles in reducing the burden. However, the legal obstacles are substantive.

The MMS cannot perform a reasonable or meaningful Determination of Need, without feedback from interested eligible refiners regarding their recent marketplace experience in obtaining adequate crude oil supplies and whether those supplies are fairly priced.

The MMS requires specific information on Form MMS-4070 from each respondent in order to assure small refiners are eligible to receive royalty oil.

In addition, failure of timely directed communications by operators to MMS or its designee regarding information about volumes, quality, transportation, timing of delivery, and status of balancing accounts (overdeliveries and underdeliveries) concerning MMS RIK volumes would likely result in:

- Storage costs incurred because MMS or its designee did not know how much pipeline space to reserve or when to pick up the MMS royalty production;
- Reduced revenues from decreased ability to monitor whether RIK values are underdelivered or overdelivered during price highs and lows;
- Monetary penalties incurred for failure to meet delivery due dates; and
- Impairment of MMS's and the Department of Energy's ability to verify receiving its full and accurate volume and quality of production.

The MMS must collect third-party agreements and agreements pertaining to quality differentials. If not collected, MMS would not be aware of the correct method and costs of delivery of royalty oil, nor the exchange for royalty oil, from the point of delivery under the contract to the purchaser's refinery. Also, MMS could not verify the quality differentials that may occur between leases and delivery points. All of these factors would affect how purchasers would value oil revenues.

For offers, the Mineral Leasing Act and the OCS Lands Act require public competition for sale of RIK. To demonstrate competition, MMS must collect offers addressing relevant economic factors in writing from potential purchasers of Federal royalty oil or gas. The MMS must utilize different bid structures and frequencies in different types of offerings and may discover some are less burdensome than others, while still meeting legal criteria. For instance, MMS may offer contracts lasting up to 1 year; or offer RIK at the lease in return for other production delivered by the bidder to another location; or require performance of a service as part of the purchase. Such offers would be submitted less frequently and would be more complex to present. If this information was not submitted, then MMS could not meet the legal requirement to compare competitive offers (prices) for RIK. Also, MMS could not sell its Federal royalty production, and the public could not buy the Federal royalty production.

In regard to financial statements or other related qualification information, royalty oil and gas are public assets, which must be protected. The successful bidder contracts to provide an offered sales price and/or required service in return for receipt of the Federal Government's RIK production. The interests of the public in actually receiving the price and/or service are best protected by the provision of information, prior to a bid being awarded, about the offerors' qualifications to perform. This permits MMS to avoid selling to a bidder who is a poor risk. Bidders must be given the opportunity to submit their own information. The consequences to the public if MMS awards a contract and delivers royalty production to financially unqualified bidders are that they may fail to perform services (such as arranging to take the gas) and fail to pay for royalty oil or gas taken. This would result in MMS incurring monetary penalties or storage fees for failure to take oil or gas from the pipeline company, administrative costs to pursue payment, and possibly loss to the public of the value of the royalty production, if the bidder becomes bankrupt. If the Federal Government or its lessee(s) must sell oil or gas on an emergency basis because it was not taken by the purchaser, they also would likely be unable to obtain full market value for the production and would incur additional administrative costs.

For surety instruments, there are no technical or legal obstacles in reducing the collection burden for the RIK programs. However, there would be considerable financial risk to the program and the Federal Government if MMS did not collect surety instruments from risky counterparties. Without surety protection, the Federal Government could lose large sums of money if an eligible refiner or other RIK purchaser failed to pay for the royalty oil received.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

***(a) requiring respondents to report information to the agency more often than quarterly.***

The frequency of publishing a *Federal Register* notice of a Determination of Need varies and could be more often than quarterly.

Interested refiners or purchasers must submit Form MMS-4070, whenever a RIK sale is held. The MMS uses information collected to determine the applicant's eligibility to purchase royalty oil and to provide a basis for the allocation of available oil among qualified refiners.

The MMS requires directed communications by operators no less than a monthly cycle, as opposed to quarterly, but also as frequently as needed in certain circumstances. For example, respondents may report gas scheduling and balancing weekly. Frequency varies because production from some leases is quite stable while production from others varies greatly. A monthly reporting and paying cycle on disposition of production is standard industry practice. Allowing operators to accumulate 3 months of undelivered and/or unreported royalty production exposes MMS to higher risk of losing the production and its attendant value. In addition, allowing parties receiving production to accumulate 3 months of unpaid obligations on deliveries would increase loss to MMS, should purchasers default, over the usual 1 month of unpaid delivery.

The frequency of submitting third-party agreements varies and could be more often than quarterly.

The frequency of offers of availability for sale and length of contracts for Federal royalty oil and gas varies, consistent with market practices and current conditions. Some offerings, on an exception basis, may be made on a monthly basis. Other offerings could be made twice a year (seasonally), or quarterly for contract terms of 6 months or more.

Financial statements or other related qualification information are only required annually, but in certain cases may be requested, or voluntarily provided on a quarterly basis. For companies not prequalified in advance of the IFO, MMS may be required to request qualification information on an immediate basis just prior to the deadline for submitting offers under the IFO. That is, companies must have their financial documentation on file with MMS before submitting an offer.

The MMS does not require surety instruments, such as Forms MMS-4071 and MMS-4072, from respondents on a routine basis. The MMS only requests sureties from respondents on an "as needed" basis when a respondent is awarded an RIK contract and before actual delivery of production commences.

***(b) requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.***

Not applicable in this collection.

***(c) requiring respondents to submit more than an original and two copies of any document.***

Not applicable in this collection.

***(d) requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than 3 years.***

In accordance with 30 U.S.C. 1724(f), Federal oil and gas records must be maintained for 7 years from the date the obligation became due.

***(e) in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study.***

Not applicable in this collection.

***(f) requiring the use of statistical data classification that has been reviewed and approved by OMB.***

There are no special circumstances with respect to 5 CFR 1320.5(d)(2)(v) through (viii) as the collection is not a statistical survey and does not use statistical data classification.

***(g) that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use.***

This collection does not include a pledge of confidentiality not supported by statute or regulation.

***(h) requiring respondents to submit proprietary trade secrets or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.***

This collection does not require proprietary, trade secret, or other confidential information not protected by agency procedures. Information is protected in accordance with standards identified in Item 10 below.

***8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice [and in response to the PRA statement associated with the collection over the past 3 years] and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.***

***Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. [Please list the names, titles, addresses, and phone numbers of persons contacted.] Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years—even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.***

As required in 5 CFR 1320.8(d), MMS provided a 60-day notice in the *Federal Register* on March 7, 2005 (70 FR 11027) (Attachment 6). Also, the Paperwork Reduction Act statement on the Forms MMS-4070, MMS-4071, and MMS-4072 explain that MMS will accept comments at any time on the information collected and the burden. We display the OMB control number and provide the address for sending comments to MMS.

The MMS routinely corresponds with the eligible refiners, holds periodic meetings with them to obtain feedback on the eligible refiner program, answers questions regarding directed communications by operators, and provides telephone assistance over toll-free lines. We also plan to periodically issue a Determination of Need notice.

We received no comments in response to the *Federal Register* notice, no unsolicited comments from potential respondents covered under these regulations, and no comments from anyone who submits the forms.

We e-mailed the following eligible refiners on March 16, 2005, in a further attempt to solicit comments, and received one comment from U.S. Oil and Refining Company regarding this information collection:

**Gary-Williams Energy Company**  
Rob Saunders  
Assistant Treasurer  
370 17<sup>th</sup> Street, Suite 5300  
Denver, CO 80202



**Placid Refining LLC**

Dennis Cernocek  
Manager, Crude Oil Supply  
1940 Louisiana Highway 1 North  
Port Allen, LA 70767

**Paramount Petroleum Corporation**

David Baker  
Director, Trading and Supply  
14700 Downey Avenue  
Paramount, CA 90723

**U.S. Oil and Refining Company**

Tom Treichel  
Vice President, Crude Oil Supply  
2121 Rosecrans Avenue, Suite 2360  
El Segundo, CA 90245

One respondent commented:

I have reviewed the attached. I believe that it takes significantly more time than 4 hours and that is assuming you only have one surety and are not out to bid with multiple parties. (Do you count your brokers time or only your own—a key question.) If you are financially weak and need to do a structured, secured (collateralized) deal you are now talking 100 hours and legal fees. My second comment (based upon a review done a long time ago) is that the letter of credit form required by the MMS is not a form that banks wish to issue. I also don't believe that you can easily get a bank to open a standby letter of credit for much less than 1% pa [per annum] today. So, this can be pretty expensive too.

The MMS responded:

In response to that comment, MMS increased the hour burden estimate for collecting sureties to 10 hours per response. While there may be situations in commercial practice where extensive negotiations are needed to secure surety, MMS is not aware that any such events have occurred under the eligible refiner program. It has been MMS's experience that sureties are only bidded out with single parties. Additionally, by increasing the hour burden estimate by 150 percent, MMS believes this will accommodate, on average, any inordinate situations regarding surety collection. Concerning MMS's letter of credit form, Form MMS-4071, MMS does not require that form to be used. Rather it is a sample only to aid those parties without a readily available letter of credit format.

***9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.***

We will not provide any payment or gift to respondents in this collection.

***10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.***

Commercial or financial information provided to MMS, relative to minerals removed from Federal leases, may be proprietary. Trade secrets and proprietary and other information are protected in accordance with standards established by the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), as amended (30 U.S.C. 1733), and Freedom of Information Act [5 U.S.C. 552(b)(4)]; and its implementing regulations (43 CFR 2). Storage of proprietary information and access to it are controlled by strict security measures.

***11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.***

The collection does not include any sensitive or private questions.

***12. Provide estimates of the hour burden of the collection of information. The statement should:***

***(a) Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.***

***(b) If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.***

***(c) Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.***

There are approximately 225 respondents (145 Federal lessees and/or operators; and 80 commercial oil and gas purchasers and/or refiners). Responses are generally on occasion, weekly, monthly, or annually. Frequency varies within the monthly reporting cycle, or as necessary. The MMS estimates that there will be 1,304 submissions each year from these 225 respondents. The MMS also estimates the total annual burden is 2,284 reporting and recordkeeping hours. Based on a cost factor of \$50 per hour, we estimate the total annual cost to industry is \$114,200 (2,284 hours x \$50 = \$114,200). There are no additional recordkeeping costs associated with this information collection. We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary.

## **Forms**

This information collection includes three forms, Forms MMS-4070, MMS-4071, and MMS-4072.

### **Section 208.4 Royalty oil sales to eligible refiners. (Determination of Need)**

We estimate the total annual burden is 32 hours for eight eligible refiners to respond to the Determination of Need notice. Based on a cost factor of \$50 per hour, we estimate the total annual cost is \$1,600 (32 burden hours x \$50 per hour = \$1,600).

### **Sections 208.6 General application procedures; 208.7 Determination of eligibility; 208.8, Transportation and delivery; 208.9, Agreements; and 208.10(e), Notices.**

We estimate the total annual burden is 18 hours for approximately eight purchasers and/or eligible refiners to submit Form MMS-4070, a letter of intent, and two copies of any written third-party agreement. We also estimate the total annual burden is 3 hours for one purchaser and/or eligible refiner to request approval from MMS for an alternate delivery point for oil; to request a transfer, an assignment, or a sale of rights or interest in a royalty oil contract; and to gather information for an incomplete Form MMS-4070. The burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Based on a cost factor of \$50 per hour, we estimate the total annual cost is \$1,050 (21 burden hours x \$50 per hour = \$1,050).

### **Directed Communications by Operators of Federal Oil and Gas Leases**

We estimate the total annual burden is 1,131 hours for approximately 145 operators to notify their working interest that Federal Government's royalty oil is taken in kind; to communicate the projected volumes and qualities of in-kind deliveries and adjustments to those projections; and to convey transportation cost and volume imbalance information related to taking the Federal Government's crude oil or natural gas in kind. We anticipate a 1-hour burden for each of these three types of responses. Based on a cost factor of \$50 per hour, we estimate the total annual cost is \$56,550 (1,131 burden hours x \$50 = \$56,550).

## **Section 208.10(d) Notices**

We estimate the total annual burden is 40 hours for the operators to notify their working interest that Federal Government's royalty oil is taken in kind. Based on a cost factor of \$50 per hour, we estimate the total annual cost is \$2,000 (40 burden hours x \$50 = \$2,000).

## **Offers**

We estimate the total annual burden is 840 hours for 40 respondents who will submit 840 offers in each fiscal year (FY) across all 5 programs—eligible refiner, SPR, Wyoming crude oil, offshore unrestricted crude oil, and offshore natural gas. We estimate some offerors will respond to only one offering each year, while other offerors will submit more offers. The burden estimate includes the time to prepare, submit, and create file copies of a bid, in approximately 1 hour per offer. Based on a cost factor of \$50 per hour, we estimate the total annual cost is \$42,000 (840 burden hours x \$50 per hour = \$42,000).

## **Financial Statements**

We estimate the total annual burden is 20 hours for approximately 20 purchasers to submit financial statements or other related qualification information to MMS. We request the purchasers to submit financial statements generally because they are small, or because they are not publicly traded and available from public sources, i.e., Securities and Exchange Commission, or the Internet. (The MMS obtains financial statements through an internet-based service for about 40 oil and gas companies that are large or publicly traded on the New York Stock Exchange. These companies would not be considered respondents under this aspect of this information collection because we are not requesting financial information from these 40 companies. However, these companies may be considered respondents under other aspects of this information collection, such as submitting offers and/or surety instruments.) It is a customary business practice to have a publicly available financial statement, so minimal burden hours are associated with creating the statement itself. The burden estimate includes the time to review the instructions and prepare, update, submit, and create file copies of a financial statement, in approximately 1 hour per respondent. Based on a cost factor of \$50 per hour, we estimate the total annual cost is \$1,000 (20 burden hours x \$50 per hour = \$1,000).

There are no additional recordkeeping costs associated with this information collection. We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary.

## Surety Instruments

We estimate the total annual burden is 200 hours for approximately 10 purchasers (including eligible refiners) to submit a surety instrument, i.e., Form MMS-4071 or MMS-4072, annually or semiannually. The burden estimates include time to prepare, submit, and set up a file copy of any type of surety instrument. Based on a cost factor of \$50 per hour, we estimate the total annual cost is \$10,000 (200 burden hours x \$50 per hour = \$10,000).

The following chart shows the breakdown of the estimated burden hours by CFR section and paragraph.

### SECTION A.12 BURDEN BREAKDOWN

Citation 30 CFR Part 208 Subpart A	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
208.4 Royalty oil sales to eligible refiners.				
208.4(a)	(a) <i>Determination to take royalty oil in kind.</i> The Secretary may evaluate crude oil market conditions from time to time. * * * The Secretary will review these items and will determine whether eligible refiners have access to adequate supplies of crude oil and whether such oil is available to eligible refiners at equitable prices. * * *	4	8	32
208.4(b)	(b) <i>Sale to eligible refiners.</i> (1) * * * The Secretary may authorize MMS to offer royalty oil for sale to eligible refiners only for use in their refineries * * *	Hour burden covered under § 208.4(a).		
208.4(c)	(c) Upon a determination by the Secretary * * * that eligible refiners do have access to adequate supplies of crude oil at equitable prices, MMS will not take royalties in kind from oil and gas leases for exclusive sale to such refiners. * * *	Hour burden covered under § 208.4(a).		
208.4(d)	(d) <i>Interim sales.</i> * * * The potentially eligible refiners, individually or collectively, must submit documentation demonstrating that adequate supplies of crude oil at equitable prices are not available for purchase. * * *	Hour burden covered under § 208.4(a).		
208.6 General application procedures.				
208.6(a) and (b)	(a) To apply for the purchase of royalty oil, an applicant must file a Form MMS-4070 with MMS in accordance with instructions provided in the	1.25	8	10

Citation 30 CFR Part 208 Subpart A	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
	"Notice of Availability of Royalty Oil" and in accordance with any instructions issued by MMS for completion of Form MMS-4070. The applicant will be required to submit a letter of intent from a qualified financial institution stating that it would be granted surety coverage for the royalty oil for which it is applying, or other such proof of surety coverage, as deemed acceptable by MMS. The letter of intent must be submitted with a completed Form MMS-4070. (b) In addition to any other application requirements specified in the Notice, the following information is required on Form MMS-4070 at the time of application: * * *			
<b>208.7 Determination of eligibility.</b>				
208.7(a)	(a) The MMS will examine each application and may request additional information if the information in the application is inadequate. * * *	0.25	1	1 (rounded up from 0.25)
<b>208.8 Transportation and delivery.</b>				
208.8(a)	(a) * * * The purchaser must have physical access to the oil at the alternate delivery point and such point must be approved by MMS.	1	1	1
208.8(b)	(b) * * * If the delivery point is on or immediately adjacent to the lease, the royalty oil will be delivered without cost to the Federal Government as an undivided portion of production in marketable condition at pipeline connections or other facilities provided by the lessee, unless other arrangements are approved by MMS. If the delivery point is not on or immediately adjacent to the lease, MMS will reimburse the lessee for the reasonable cost of transportation to such point in an amount not to exceed the transportation allowance determined pursuant to 30 CFR part 206. * * *	Hour burden covered by OMB Control Number 1010-0140 (Form MMS-2014, expires 10/31/2006).  This provision is no different than the transportation allowances allowed in 30 CFR part 206 for royalties paid in value. The lessee enters allowance amount on Form MMS-2014.		
<b>208.9 Agreements.</b>				
208.9(a)	(a) A purchaser must submit to MMS two copies of any written third-party agreements, or two copies of a full written explanation of any oral third-party agreements, relating to the	1	8	8

Citation 30 CFR Part 208 Subpart A	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
	method and costs of delivery of royalty oil, or crude oil exchanged for the royalty oil, from the point of delivery under the contract to the purchaser's refinery. In addition, the purchaser must submit copies of agreements pertaining to quality differentials which may occur between leases and delivery points.			
<b>208.10 Notices.</b>				
208.10(d)	(d) After MMS notification that royalty oil will be taken in kind, the operator shall be responsible for notifying each working interest on the Federal lease. * * *	2	20	40
208.10(e)	(e) A purchaser cannot transfer, assign, or sell its rights or interest in a royalty oil contract without written approval of the Director, MMS. * * * Without express written consent from MMS for a change in ownership, the royalty oil contract shall be terminated. * * *	1	1	1
<b>208.11 Surety requirements [for eligible refiners].</b>				
208.11 (a), (b) (d), and (e)	<p>(a) The eligible purchaser, prior to execution of the contract, shall furnish an "MMS-specified surety instrument," in an amount equal to the estimated value of royalty oil that could be taken by the purchaser in a 99-day period, plus related administrative charges. * * *</p> <p>(b) * * * The purchaser or its surety company may elect not to renew the letter of credit at any monthly anniversary date, but must notify MMS of its intent not to renew at least 30 days prior to the anniversary date. * * *</p> <p>(d) The "MMS-specified surety instrument" shall be in the form specified by MMS instructions or approved by MMS. * * *</p> <p>(e) All surety instruments must be in a form acceptable to MMS and must include such other specific requirements as MMS may require adequately to protect the Government's interests.</p>	<p>Hour burden covered under "Offers, Financial Statements, and Surety Instruments for Sales of Royalty Oil and Gas" section.</p> <p>(Forms MMS-4071, Letter of Credit, and MMS-4072, Royalty-In-Kind Contract Surety Bond)</p>		

Citation 30 CFR Part 208 Subpart A	Reporting and Recordkeeping Requirement	Hour Burden	Average Number of Annual Responses	Annual Burden Hours
208.15 Audits.				
208.15	Audits of the accounts and books of lessees, operators, payors, and/or purchasers of royalty oil taken in kind may be made annually or at other such times as may be directed by MMS. * * *	PRODUCE RECORDS The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions.		
Directed Communications by Operators of Federal Oil and Gas Leases.				
Contract-Directed	Wyoming Oil	3	47	141
	Natural Gas [Texas 8G and Gulf of Mexico (GOM)]	3	176	528
	GOM Oil	3	7	21
	SPR Fill Initiative (The SPR is expected to reach full capacity by the end of FY 2005. At that point, MMS will shift SPR oil volumes to the commercial GOM Oil RIK program. Thus, information-collection responses will continue at the same level after SPR is filled to capacity.)	3	101	303
	Eligible Refiners	3	46	138
Offers, Financial Statements, and Surety Instruments for Sales of Royalty Oil and Gas.				
Contract-Directed	Offers	1	840	840
	Financial Statements	1	20	20
	Surety Instruments	10	20	200
TOTAL BURDEN			1,304	2,284

**13. Provide an estimate of the total annual [non-hour] cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)**

*(a) The cost estimate should be split into two components: (1) a total capital and start-up cost component (annualized over its expected useful life) and (2) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.*

*(b) If cost estimates are expected to vary widely, agencies should present ranges of cost burden and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden*



*estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.*

*(c) Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.*

We have identified no paperwork cost burdens for this collection of information.

***14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.***

To analyze and review the information, the Federal Government spends an average of 1 hour for each hour spent by respondents. The total estimated Federal Government time burden is 2,284 hours, based on time or effort needed to complete all data gathering requirements; to analyze eligible refiner feedback in response to this information collection; and to prepare a written report to MMS senior managers delineating findings and recommendations. Based on a cost factor of \$50 per hour, the total annual estimated cost burden to the Federal Government is \$114,200 (2,284 hours x 1 hour = 2,284 hours x \$50 = \$114,200). Refer to Item A.12 for detailed breakdown.

***15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.***

Item 13, OMB Form 83-I

The current OMB inventory is 5,121 burden hours. The new total burden hours are 2,284, resulting in a total burden hour decrease of 2,837. This overall difference reflects a decrease of 2,877 hours from recalculating burden hours based on our historical data analysis and an increase of 40 hours based on the inclusion of requirements overlooked in the previous submission. Computation details and specific changes are identified as follows:

- Adjustment (-2,877)—Adjustment decrease of 2,877 hours due to re-estimating the average annual responses based on our historical data analysis and consultation with eligible refiners/RIK purchasers and operators.

- Program Changes (+40)—Program change increase of 40 hours for inclusion of § 208.10(d) for notification requests to working interest(s) on a Federal lease. This requirement was overlooked in the previous ICR renewal submission.

In summary, there is a net adjustment decrease of 2,877, and a net program change increase of 40 hours, resulting in an overall burden hour decrease of 2,837.

#### Item 14, OMB Form 83-I

There is no cost burden to report in Item 14 of OMB Form 83-I.

***16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.***

The data collected will not be tabulated and published for statistical use. The MMS will not use any complex analytical techniques.

The results from the Determination of Need will be presented to MMS management and used as the basis for conducting RIK sales. Overall, results will be available to the respondents and the public in general. The results would be referenced in a *Federal Register* as “Notice of Availability of Royalty Oil” should MMS decide to conduct future RIK sales. The MMS will not publish data from Form MMS-4070.

Overall results from the directed communications to the operators will be reported to MMS management, interested state and industry organizations, and legislators. Proprietary data in individual submissions will be protected. No specific information is published.

Also, the MMS will not publish data regarding third-party agreements, financial statements, or surety instruments, i.e., Forms MMS-4071 and MMS-4072.

***17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.***

We will display the expiration date of OMB's approval on Forms MMS-4070, MMS-4071, and MMS-4072.

***18. Explain each exception to the certification statement identified in Item 19, “Certification for Paperwork Reduction Act Submissions,” of OMB Form 83-I.***

To the extent that the topics apply to this collection of information, we are not making any exceptions to the “Certification for Paperwork Reduction Act Submissions.”

**B. Collection of Information Employing Statistical Methods**

This section is not applicable for this collection. We will not employ statistical methods in this information collection.